IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 5TH FEBRUARY 2007 / 16TH MAGHA 1928

WP(C).No. 23282 of 2006(V)

PETITIONER:

FAROOK INSTITUTE OF MANAGEMENT STUDIES,
FAROOK COLLEGE P.O., CALICUT, REPRESENTED BY
ITS DIRECTOR, PROF.K.RAVIKUMAR.

BY ADV. SRI.C.P.MOHAMMED NIAS

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED
BY ITS SECRETARY, HIGHER EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE UNIVERSITY OF CALICUT,
CALICUT UNIVERSITY P.O., MALAPPURAM DISTRICT,
REPRESENTED BY ITS REGISTRAR.

3. DR.SEYD IQBAL HASNAIN,
VICE CHANCELLOR, UNIVERSITY OF CALICUT,
CALICUT UNIVERSITY P.O., MALAPPURAM DISTRICT.

4. DR.K.K.MUHAMMED, REGISTRAR,
UNIVERSITY OF CALICUT, CALICUT UNIVERSITY P.O.,
MALAPPURAM DISTRICT.

5. DR.MURALEEDHARAN, HEAD OF DEPARTMENT,
COMMERCE AND MANAGEMENT STUDIES,
UNIVERSITY OF CALICUT, CALICUT UNIVERSITY P.O.,
MALAPPURAM DISTRICT.

R1 BY G.P. SMT. SMITHA
R2 BY SC SRI. P.C. SASIDHARAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE ORDER ISSUED BY THE UNIVERSITY OF CALICUT DATED 16.7.2004

EXT.P2 TRUE COPY OF THE GOVERNMENT ORDER DATED 24.11.2004

EXT.P3 TRUE COPY OF THE LETTER DATED 20.6.2006

EXT.P4 TRUE COPY OF THE LETTER ISSUED BY THE UNIVERSITY DATED 15.7.2006

EXT.P5 TRUE COPY OF THE LETTER DATED 16.5.2006 OF THE UNIVERSITY

EXT.P6 TRUE COPY OF CHALAN RECEIPT FOR REMITTING THE AFFILIATION FEE

EXT.P7 TRUE COPY OF UNDERTAKING AND DECLARATION ISSUED TO THE STUDENTS.

EXT.P8 TRUE COPY OF ORDER DATED 21.8.2006 IN WPC 19420 OF 2006

EXT.P9 TRUE COPY OF LETTER DATED 17.8.2006

EXT.P10 TRUE COPY OF NEWS ITEM APPEARED IN MATHRUBHOOMI DAILY DATED 28.7.2006

EXT. P11 TRUE COPY OF THE REPORT DATED 8.8.2006 PUBLISHED IN MADHYAMAM

EXT.P12 TRUE COPY OF THE REPORT DATED 24.8.2006 PUBLISHED IN MATHRUBHOOMI

EXT.P13 TRUE COPY OF THE REPORT DATED 26.8.2006 PUBLISHED IN MADHYAMAM

EXT.P14 TRUE COPY OF REPORT DATED 26.8.2006 PUBLISHED IN MALAYA MANORAMA DAILY

EXT.P15 TRUE COPY OF REPORT DATED 26.8.2006 APPEARED IN CHANDRIKA DAILY

EXT.P16 TRUE COPY OF THE REPORT DATED 26.8.2006 PUBLISHED IN MATHRUBHOOMI DAILY

EXT.P17 TRUE COPY OF THE RANK LIST

EXT.P18 TRUE COPY OF THE LIST OF 128 STUDENTS.

EXT.P19 TRUE COPY OF THE ORDER OF AICTE DATED 15.5.2006

EXT.P20 TRUE COPY OF THE LETTER SENT BY THE UNIVERSITY TO THE PETITIONER-INSTITUTION

EXT.P21 TRUE COPY OF THE SAID REPORT DATED 20.6.2006 PUBLISHED IN THE MATHRUBHOOMI DAILY

EXT.P22 TRUE COPY OF THE LETTER SENT BY THE PETITIONER-INSTITUTION TO THE UNIVERSITY BY REGISTERED POST ACKNOWLEDGEMENT DUE.

EXT.P23 TRUE COPY OF THE LIST OF STUDENTS WHO WERE ADMITTED ON 25.8.2005

EXT.P24 TRUE COPY OF THE LETTER DATED 4.10.2006 ISSUED BY GOVERNMENT.

EXT.P25 TRUE COPY OF THE LETTER DATED 11.10.2006 IN REPLY TO THE LETTER DATED 4.10.2006

EXT.P26 TRUE COPY OF THE REPORT DATED 31.10.2006 IN THE MALAYALA MANORAMA DAILY.

EXT.P27 TRUE COPY OF THE NESWS ITEM DATED 31.10.2006 IN MADHYAM DAILY.

EXT.P28 TRUE COPY OF THE NEWS ITEM DATED 1.11.2006 IN MATHRUBHUMI DAILY

EXT.P29 TRUE COPY OF THE NEWS DATED 26.11.2006 IN MATHRUBHUMI ANNOUNCING THE DATE FOR REGISTRATION AND EXAM.

EXT.P30 TRUE COPY OF THE LETTER SENT BY THE PETITIONER INSTITUTION ACKNOWLEDGED BY THE UNIVERSITY.

EXT.P31 TRUE COPY OF THE ORDER DATED 1.2.2006

EXT.P31(a) TRUE COPY OF THE NOTICE DATED 9.10.2006

EXT.P32 TRUE COPY OF THE NEWS ITEMS IN MATHRUBHUMI DAILY DATED 18.9.2006

EXT.P33 TRUE COPY OF THE NEWS ITEM IN MALAYALA MANORAMA DATED 19.9.2006

EXT.P34 TRUE COPY OF THE LETTER TO THE UNIVERSITY DATED 25.8.2005

EXT.P35 TRUE COPY OF THE LETTER SENT BY THE PETITIONER TO THE DEPUTY REGISTRAR OF EXAMINATIONS UNIVERSITY OF CALICUT DATED 9.1.2006

EXT.P36 TRUE COPY OF THE LETTER DATED 31.1.2005 ISSUED BY JUSTICE K.T. THOMAS COMMITTEE TO THE PRESIDENT OF ASSOCATION OF SELF-FINANCING MANAGING INSTITUTES IN KERALA.

EXT.P37 TRUE COPY OF THE LETTER FROM THE PRESIDENT OF ASSOCIATION OF SELF-FINANCING MANAGEMENT INSTITUTES IN KERALA TO THE PRINCIPAL SECRETARY, HIGHER EDUCATION GOVERNMENT OF KERALA.

EXT.P38 TRUE COPY OF THE ADVERTISEMENT FOR ASMIK MAT BY THE ASSOCIATION OF SELF-FINANCING MANAGEMENT INSTITUTES IN KERALA DATED 5.8.2005

EXT.P39 TRUE COPY OF THE ADVERTISEMENT FOR ASMIK MAT ASSOCIATION OF SELF-FINANCING MANAGEMENT INSTITUTES IN KERALA FOR THE YEAR 2006-2008 DATED 3.5.2006

2ND RESPONDENT'S EXHIBITS:

EXT.R2(a) TRUE COPY OF THE LIST FORWARDED BY THE PETITIONER COLLEGE TO THE UNIVERSITY.

EXT.R2(b) TRUE COPY OF THE LETTER FROM THE DEAN, FACULTY OF COMMERCE AND MANAGEMENT STUDIES DATED 16.12.2005

EXT.R2(c) TRUE COPY OF THE LETTER ADDRESSED BY THE UNIVERSITY TO THE COLLEGE.

EXT.R2(d) TRUE COPY OF THE PRESS RELEASE DATED 24.8.2006

EXT.R2(e) TRUE COPY OF THE SCHEME REGULATIONS AND SYLLABI OF MBA COURSE.

EXT.R2(f) TRUE COPY OF THE GOVT. ORDER DATED 3.`11.2006.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 23282 OF 2006

Dated this the 5th day of February, 2007

JUDGMENT

Petitioner, which is running an educational institution, is conducting M.B.A. course. Petitioner obtained approval from the All India Council for Technical Education and obtained NOC from the Government for starting the college. Thereafter affiliation was granted by the Calicut University for the M.B.A. course for the academic year 2005-06. However, affiliation was provisional and petitioner filed application for renewal against which University sent a communication vide Ext.P9 which is under challenge in this W.P. Objectionable portion in the communication is that petitioner should withdraw the Writ Petition filed in this Court, which was closed in view of this W.P. Students admitted for the academic year 2005-06 are undergoing third semester study and in between petitioner admitted next batch of students for M.B.A. course, pursuant to Ext.P8 interim orders of this Court dated 21.8.2006. Thereafter Government has issued order dated 3.11.2006 providing guidelines for admissions in the management

quota by the University. The new guidelines issued by the Government on 3.11.2006 do not apply for the current academic year because admissions have already been made following the relevant order applicable for the earlier year. Since affiliation was granted for the year 2005-06 and students admitted, necessarily affiliation will be continued for the next year as the same batch of students are undergoing 2nd year of study. Of course it is upto the University to satisfy itself that the College has eligibility and facilities required for conducting the course, conditions of which have been laid down while granting approval by AICTE. The main issue here is against the authority conferred on the University to admit students from the merit quota. Counsel for the University on the other hand contended that University intervened because petitioner's college advertised for admission of students to subjects like Shipping and Port Management, Supply Chain Management, etc. which were not courses for which recognition was granted by the University. College obviously cannot start course in subjects for which there is no affiliation from the University. Petitioner will have to necessarily confine its curriculam

for the course for which University has granted affiliation. Since admissions for 2006-07 were given under interim orders of this Court, and since admissions for 2005-06 are given based on previous year's guidelines for which University has granted affiliation , I dispose of W.P. with direction to the second respondent to allow second batch of students to write the examination being held for the year 2006-07, keeping the provisional affiliation continuing for the next year also, and then consider petitioner's case for continued eligibility on regular basis. Petitioner will submit whatever is requirement that the University demands, but subject to decision by All India Council for Technical Education, judgments of this Court and Supreme Court on this aspect. University is directed to publish the withheld results of the students after verifying their eligility to write the examinations. So far as admissions under the management quota and merit quota are concerned, University is directed to take a final decision on affiliation on regular basis within three months from now.

(C.N.RAMACHANDRAN NAIR)
Judge